

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 1ST JANUARY 2007 / 11TH POUSHA, 1928

Crl.MC.No. 902 of 2005()

CC.103/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHALAKUDY

PETITIONER: ACCUSED:

ANIRUDHAN ALIAS ANIL, S/O. KRISHNAN,
NARAYANA VILASOM, PARUKUNNAM, VARKALA P.O.,
M/S. VARKALA GLASS HOUSE, TMPLE ROAD,
VARKALA.

BY ADV. SRI.R.ANILKUMAR
SRI.P.BANI

RESPONDENTS: COMPLAINANT:

1. THOMSON PIPES, ELINJIPRA,
REP. BY MANAGING PARTNER MRS.JANCY JOSE,
POWER OF ATTORNEY HOLDER K.J. POLY,
S/O. JOSE, KIZHAKKODAM, ELINJIPRA,
MUKKARUPURAM, CHALAKKUDY.

2. STATE OF KERALA REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA.

BY ADV. SRI.T.N.MANOJ
PUBLIC PROSECUTOR SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 01/01/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 902 OF 2005

Dated this the 1st day of January, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the N.I. Act. The prosecution is launched by the 1st respondent/complainant. The cheque is for an amount of Rs.6,000/-. The petitioner contends that the prosecution is without any basis and it would work out unnecessary hardship and miscarriage of justice.

2. What is the ground? According to the learned counsel for the petitioner, as per a notice dated 19/6/03, demand was earlier made. The same was duly acknowledged. No prosecution was launched within the time stipulated. Long later, another notice dated 9/10/03 has been issued and the prosecution is initiated on the basis of the said notice dated 9/10/03. The clock of limitation had started ticking with the receipt of notice dated 19/6/03. In these circumstances, Annexure-A complaint dated 26/11/03 is hopelessly barred by limitation and is barred under Sec.142 of the N.I. Act. This, in short, is the contention.

3. There is no specific contention raised that notice

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dated 19/6/03 is not issued and acknowledged by the accused. A copy thereof is produced as Annexure-C. The prosecution is certainly barred by limitation and cannot succeed. I find no point in compelling the petitioner to undergo the trauma of a prosecution when on admitted facts the complaint is barred by limitation. Of course, in Annexure-C we find that in addition to the claim for Rs.6,000/- due under the cheque in question, demand is made for a further amount of Rs.7,306/- due under a different cheque. That cannot, in any way, alter the liability so far as the cheque for Rs.6,000/- (No.167976) involved in the prosecution is concerned.

4. It follows from the above discussions that the prosecution against the petitioner is liable to be quashed.

5. This Crl.M.C. is accordingly allowed. C.C.No.103/04 before the Judicial Magistrate of the First Class, Chalakkudy, against the petitioner is hereby quashed.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge

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